

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JJDG,)
Plaintiff,)
)
v.) Civil No. 21-11253-LTS
)
STATE OF MASSACHUSETTS, et al.,)
Defendants.)
)

ORDER ON MOTION TO APPOINT COUNSEL AND FOR EXTENSION OF TIME

November 17, 2021

SOROKIN, J.

Alba Iris De Los Santos-Abreu (“Abreu”) commenced this action on behalf of JJDG with the filing of a *pro se* complaint. Dkt. No. 1. The motion for leave to proceed *in forma pauperis* was allowed and the motion to appoint counsel was denied without prejudice. Dkt. No. 5. Plaintiff was advised that the complaint as pled is subject to dismissal, and if Abreu and/or JJDG wishes to proceed in this matter, an amended complaint must be filed. *Id.* Now before the Court is Abrue’s renewed motion for counsel with a request for an extension of time to file an amended complaint. Dkt. No. 8.

A civil plaintiff does not have a constitutional right to free counsel. *Desrosiers v. Moran*, 949 F.2d 15, 23 (1st Cir.1991). However, under certain circumstances, the court “may request an attorney to represent any person unable to afford counsel.” 28 U.S.C. § 1915(e)(1). In order to qualify for appointment of counsel in a civil case: (1) a party must be indigent; and (2) exceptional circumstances must exist such that denial of counsel would result in fundamental unfairness impinging on the party's due process rights. See *Desrosiers*, 949 F.2d at 23.

At this time, the Court finds no such exceptional circumstances. However, the Court may more adequately evaluate the merits of a renewed motion for counsel after an amended complaint is filed.

Plaintiff is reminded that the initial claim against the Lawrence Public Schools pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 et seq., failed to allege sufficient facts to state a plausible claim for the denial of a free appropriate public education. Also, the complaint failed to state whether plaintiff presented a complaint to the Lawrence Public Schools and whether the IDEA’s administrative procedures have been exhausted. Also, the complaint failed to state a claim against the remaining 9 defendants and plaintiff was advised that unrelated claims against different defendants belong in separate lawsuits.

Accordingly, it is hereby Ordered that:

Based on the foregoing, it is hereby Ordered that:

1. The Motion to Appoint Counsel (Dkt No. 6) is DENIED without prejudice.
2. If Abreu and/or JJDG wishes to proceed in this matter, **an amended complaint must be filed by December 8, 2021**. No further enlargement of time will be permitted and failure to comply with the Court’s directives will result in dismissal of this action.

SO ORDERED.

/s/ Leo T. Sorokin
Leo T. Sorokin
United States District Judge